IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

WP(C).No. 2863 of 2007(N)

PETITIONER:

G.BHUVANACHANDRAN PILLAI,
ANEESH ENTERPRISES, KILIKOLLUR,
KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS:
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1. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES, KOLLAM.

2. THE SALES TAX OFFICER,
COMMERCIAL TAXES, IIND CIRCLE, KOLLAM.

3. INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KOLLAM.

BY GOVERNMENT PLEADER SRI MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 2863 OF 2007-N

JUDGMENT

The petitioner is aggrieved by Exts.P1 and P2 assessment orders, assessing sales tax for the years 2000-01 and 2001-02. He also challenges Ext.P6 demand notice issued, directing to remit the amounts due under those assessment orders. The petitioner has preferred Exts.P3 and P4 appeals against those orders. Relying on Ext.P5, which is a certificate issued by the Project Officer of District Khadi & Village Industries Office, Kollam, stating that the petitioner's unit is aided by the Kerala Khadi & Village Industries Board, he claims exemption from payment of tax. In the above factual background, this writ petition is filed, seeking the following reliefs:

> "(I) To call for the records leading to Exhibits P1 and P2 and to issue a writ of certiorari or other appropriate writ or direction quashing Exts.P1, P2 and P6.
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> (II) Issue a writ of mandamus or other appropriate writ, order or direction, commanding the 1st respondent to pass final orders in Exhibit P3 and P4 appeals, taking into consideration of Ext.P5 within a stipulated time as directed by this Hon'ble Court and till then all further Revenue Recovery proceedings pursuant to Exhibits P1, P2 and P6 may be kept in abeyance.
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> (III) To declare that the petitioner is entitled to get exemption as per Ext.P5 and liable to pay the amount

demanded in Exhibits P1, P2 and P6, subject to the outcome of the final orders passed by the 1st respondent in Exhibits P3 and P4 appeals."

2. The challenge against Exts.P1 and P2 cannot be entertained, since the petitioner has already invoked the appellate remedy against those orders. Ext.P6 is only a demand. Unless the petitioner moves the appellate authority and gets stay of Exts.P1 and P2, I find nothing illegal with Ext.P6. Rather, it is the duty of the respondents to collect the tax under Exts.P1 and P2, by issuing Ext.P6. If Exts.P3 and P4 appeals are received and pending, the 1st respondent will consider and pass orders on them, without overlooking the priority of other cases, if any, filed prior to Exts.P3 and P4.

3. The 3rd prayer cannot be granted, as the petitioner does not have a case that he has obtained exemption from payment of tax from the General Manager, District Industries Centre. Subject to the direction regarding the disposal of the appeals, the Writ Petition is dismissed. It is made clear that I have not considered the case of the petitioner on merits. The dismissal of the writ petition will not affect the right of the petitioner to move the appellate authority and get appropriate interim orders.

9th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/